

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

Fond Du Lac Bumper Exchange, Inc., on
behalf of itself and others similarly situated,

Plaintiff,

vs.

Jui Li Enterprise Company, Ltd., et al.,

Defendants.

CASE NO. 2:09-CV-00852-LA

Vehimax International, LLC, on behalf of
itself and others similarly situated,

Plaintiff,

vs.

Jui Li Enterprise Company, Ltd., et al.,

Defendants.

CASE NO. 2:10-CV-00224-LA

**DEFENDANTS' JOINT MOTION TO DISMISS
FOR LACK OF SUBJECT MATTER JURISDICTION**

Defendants Taiwan Kai Yih Industrial Co. Ltd, Cornerstone Auto Parts, LLC, Gordon Auto Body Parts, Auto Parts Industrial, Ltd., and TYG Products, L.P. (collectively the “Defendants”), by and through their respective attorneys, move to dismiss First Amended Complaint of Fond du Lac Bumper Exchange, Inc. and Vehimax International, LLC (collectively, “Plaintiffs”), pursuant to Federal Rule of Civil Procedure 12(b)(1) and 15 U.S.C. § 6a. This Court lacks the requisite subject matter jurisdiction to hear this dispute, and thus the FAC must be dismissed in its entirety.

In this action, Plaintiffs and a putative class, purchasers of aftermarket sheet metal aftermarket repair parts for automobiles (“AM Sheet Metal”), seek to address alleged unlawful conspiracies that they claim were entered into in violation of Section 1 of the Sherman Act, 15 U.S.C. §1. Yet this case involves conduct and effects occurring outside the subject matter jurisdiction of the United States courts. As set forth in the First Amended Complaint, the purported acts occurred solely in Taiwan, by Taiwanese entities.

Plaintiffs cannot demonstrate with competent proof that subject matter jurisdiction exists.

Pursuant to the Foreign Trade Antitrust Improvements Act (the “FTAIA”), 15 U.S.C. § 6a, U.S. Courts are *expressly divested* of subject matter jurisdiction over conduct that involves non-import foreign trade or commerce – the precise conduct alleged in the First Amended Complaint.

Further, Plaintiffs’ claims do not fall within any exception to the FTAIA.

Plaintiffs’ attempt to impose U.S. antitrust laws onto Taiwanese commerce is improper and contrary to the FTAIA.

WHEREFORE, Defendants respectfully request that the Court dismiss Plaintiffs’ First Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(1) and 15 U.S.C. § 6a.

Respectfully submitted,

Date: May 11, 2010

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